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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,763	08/24/2006	Chan Hyuk Chyun	31132/42274	2508
4743 7590 05/29/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357				
EXAMINER				
ARK, DARREN W				
ART UNIT		PAPER NUMBER		
3643				
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05/29/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,763

Applicant(s)

CHYUN, CHAN HYUK

Examiner

Darren W. Ark

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 8-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/12/2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, the phrase "a slant having an inclined plan" renders the claim vague and indefinite. It appears that the term "plan" should be changed to "plane". Original claim 1 had the term "plane" thereat.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese Pat. No. 2001-136891 to Yamamoto.

Yamamoto discloses a plate (12); a first birdlime (2) adhered to at least a portion of the plate; a slant (13 with one of 4a or 4b) having an inclined plane (one of 4a, 4b in Fig. 7) and a vertical section (13 extend vertically), the slant being disposed on the plate (one of 4a, 4b are disposed on the plate 12 via interconnection of parts and also one of 4a, 4b are supported on plate 12 by 13; structural relationship between the slant and plate not being particularly claimed) and adjacent to at least a part of the first birdlime (one of 4a, 4b are generally near 2); and a second birdlime (layer of 2 also present on 13; see Fig. 6) adhered onto the vertical section (13); wherein the vertical section vertically extends from an end of the inclined plane to the plate (13 extends vertically downward from lower end of either 4a, 4b to 12; see Fig. 7).

In regard to claim 2, Yamamoto discloses the slant which surrounds the first birdlime (4a, 4b encompass an area that generally surrounds middle portion of 2).

In regard to claim 3, Yamamoto discloses a cover (other of 4a, 4b OR 8, 9) disposed in a manner such that a gap (gap is formed between either 8 & 4b or 9 & 4a as shown in Fig. 7) is formed between the cover and the slant, wherein the gap

functions as a path for cockroaches (this gap is capable of providing a path for roaches).

In regard to claims 4 and 5, Yamamoto discloses a material for attracting roaches being disposed on the first birdlime (food is placed on adhesive which is attractive to rats and which is likewise attractive to roaches).

In regard to claim 7, Yamamoto discloses a portion of the plate (12) being subsided (12 is subsided relative to spacer 14 which is positioned above 12) and the first birdlime (2) being adhered to the subsided portion of the plate.

6.

7.

8. Claims 1, 2, 7, 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Andric 4,709,504.

Andric discloses a plate (10a); a first birdlime (middle part of 18a); a slant (between 64 & 65) with an inclined plane and a vertical section (61); and a second birdlime (lateral edges of 18a contacting 61; structure not being particularly claimed).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 3, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andric 4,709,504.

Andric does not disclose a cover disposed in a manner that a gap is formed between the cover and the slant in the embodiment of Figs. 9 and 10. Andric discloses in the embodiments of Figs. 5-8 a cover (14", 14'") disposed to form a gap (see Fig. 6) between the cover and the slant (34). It would have been obvious to a person of ordinary skill in the art to modify the Andric embodiment of Figs. 9 and 10 such that it has a cover forming a gap between the cover and the slant in view of Andric Figs. 5-8 in order to provide an enclosed space for the cockroach to feel safe and secure yet allow the cockroach to enter just above the slant and under the cover.

In regard to claim 6, Andric does not disclose the gap being between 7mm and 10mm. It would have been an obvious matter of design choice to design the gap such that it is between 7mm and 10mm since applicant has not disclosed that by doing so solves any particular problem or is critical to the design and it appears that the trap of Andric would perform equally as well by doing so and because the gap would be designed with an appropriate size to allow the desired insects in while preventing pets or children from gaining access to the birdlime in the trap.

11. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andric 4,709,504 in view of Katsuda 3,940,874.

Andric does not disclose a material for attracting cockroaches. Katsuda discloses a material for attracting cockroaches (4) disposed on the first birdlime (3) on a plate (bottom of 1). It would have been obvious to a person of ordinary skill in the art to

modify the first birdlime of Andric such that it has a material for attracting cockroaches in view of Katsuda in order to provide means for enticing the roaches to reach the middle of the birdlime and thus become surely entrapped.

12. Claims 1-3, 6, 7, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andric 4,709,504 in view of Brunetti 4,876,823 or Otterson 4,244,134.

Alternatively, Andric does not disclose a second birdlime adhered onto the vertical section in the embodiment of Figs. 9 and 10. Brunetti discloses an insect trap comprising two vertical sections (62, 66) with birdlime (adhesive) adhered thereto. Otterson discloses a plate (64) with a first birdlime (68) and a vertical section (54) with a second birdlime (68). It would have been obvious to one of ordinary skill in the art to modify the vertical section of Andric such that it has a second birdlime adhered thereto in view of Brunetti or Otterson in order to provide additional means for engaging the roaches and entrapping them therein.

In regard to claim 3, Andric does not disclose a cover disposed in a manner that a gap is formed between the cover and the slant in the embodiment of Figs. 9 and 10. Andric discloses in the embodiments of Figs. 5-8 a cover (14", 14'") disposed to form a gap (see Fig. 6) between the cover and the slant (34). It would have been obvious to a person of ordinary skill in the art to modify the Andric embodiment of Figs. 9 and 10 such that it has a cover forming a gap between the cover and the slant in view of Andric Figs. 5-8 in order to provide an enclosed space for the cockroach to feel safe and secure yet allow the cockroach to enter just above the slant and under the cover.

In regard to claim 6, Andric does not disclose the gap being between 7mm and 10mm. It would have been an obvious matter of design choice to design the gap such that it is between 7mm and 10mm since applicant has not disclosed that by doing so solves any particular problem or is critical to the design and it appears that the trap of Andric would perform equally as well by doing so and because the gap would be designed with an appropriate size to allow the desired insects in while preventing pets or children from gaining access to the birdlime in the trap.

13. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andric 4,709,504 in view of Brunetti 4,876,823 or Otterson 4,244,134 as applied to claim 1 above, and further in view of Katsuda 3,940,874.

Andric and Brunetti or Otterson do not disclose a material for attracting cockroaches. Katsuda discloses a material for attracting cockroaches (4) disposed on the first birdlime (3) on a plate (bottom of 1). It would have been obvious to a person of ordinary skill in the art to modify the first birdlime of Andric and Brunetti or Otterson such that it has a material for attracting cockroaches in view of Katsuda in order to provide means for enticing the roaches to reach the middle of the birdlime and thus become surely entrapped.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W. Ark/
Darren W. Ark
Primary Examiner
Art Unit 3643

DWA